IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P.No.6515 of 2006
Date of decision: 13.11.2006

M/s Vishwarkarma Alloys Limited and others
.. Petitioners

v.

Union of India and others
.. Respondents

Present: Mr. Amit Jhanji, Advocate for the petitioners.

Mrs. Daya Chaudhary, Assistant Solicitor General of India and
Mr. Ashwinie Bansal, Central Government Counsel.

CORAM:

Hon'ble Mr.Justice Adarsh Kumar Goel
Hon'ble Mr. Justice Rajesh Bindal

1. Whether Reporters of local papers maybe allowed to see the judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest?

Rajesh Bindal, J.

The petitioners have approached this Court by filing the present petition praying for the following substantive reliefs:

> "(i) issue an appropriate writ, order or direction especially in the nature of certiorari for quashing the impugned search and seizure carried out by respondents No.2 to 5 in the premises of petitioner No.1 and the residence of the petitioner No.2 from 19.4.2006 to 24.4.2006, being illegal, arbitrary and against the provisions of the search and seizure provided under Section 18 of the Central Excise Act, 1944 and Section 165 of Cr.P.C.;
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> (ii) issue a writ in the nature of mandamus directing the respondents to supply the copies of the search warrants for effecting the searches at the premises of petitioner No.1 and the residence of petitioner No.2, the respondents be directed to supply the copies of the panchnama drawn while seizing the documents, goods, CPUs etc. from the factory premises of petitioner No.1 and regarding the

computer (CPU) seized at the residence of the petitioner No.2;

(iii) the respondents be also directed to supply the resumption memos drawn regarding the documents and other things taken by the respondent No.3 to 4 during the search;

(iv) the respondents be further directed to record the statement of the petitioners No.2 and 3 and any other employee of the petitioner No.1 during the office hours only;

(v) the respondents be further directed to return the documents, goods, CPUs seized from the residence and the factory premises of the;"

Briefly, the facts, as pleaded in the petition are that petitioner No.1 is engaged in the manufacture of ignots. In January, 2006, some inquiry/investigation with regard to cost audit under Section 14AA of the Central Excise Act, 1944 (for short, `the Act') was initiated against petitioner No.1. The petitioners provided all the information available with them to the respondents. That matter was yet to be adjudicated upon, when on 19.4.2006, the respondents raided the factory premises as well as residential premises of the petitioners. During the search, entire record including CPUs and almirahs were seized. Despite requests, the respondents did not permit or supply the photo copies of the documents and the data contained in the CPUs.

We do not find any reason to go into the prayers made by the petitioners in the writ petition except regarding supply of copies of documents seized and copies of the data contained in the CPUs.

We have already considered an identical issue in C.W.P. No. 12277 of 2006-- M/s Cannon IndustriesPvt. Ltd., Mumbai v. The Chief Commissioner, Central Excise, Chandigarh and others, decided on 27.9.2006, where the request was for supply of copies of documents seized and also the data contained in the computer seized. While considering the provisions of the Act in this regard, this Court directed as under:

"(i)As regards the documents seized from the premises of the petitioner is concerned, it would be entitled to get the copies made

thereof at its own cost by sending a duly authorised representative before the authority. The originals thereof will be retained by the respondents.

(ii)As regards the making of copies of the data contained in the hard disks of the computers seized during search and seizure operation is concerned, it is directed that the petitioner will send an authorised person for the purpose to be present before the authority on the appointed date and time. The authorised person will verify that the seals contained on the package containing hard disks were intact and record his statement to that effect. Thereafter, in the presence of representatives of both the parties, three sets of print outs of the data contained in the hard disks shall be taken out at the cost of the petitioner. All the three copies, so printed, shall be signed by representatives of both the parties. One copy each shall be kept by both the parties for their use and one copy shall be retained in a sealed cover under the signatures of representatives of both the parties. The authorised representative of the petitioner, in whose presence the data from the hard disks shall be printed, will verify that the documents, the print out of which had been taken out, were contained in the hard disks seized.

(iii)As regards return of original documents seized during search and seizure operation is concerned, it is directed that the same shall be retained by the respondents till the investigation is complete. However, the petitioner shall be entitled to get the copies thereof at its expenses.

(iv)As regards the prayer for quashing of letter Annexure P.17 is concerned, from a perusal thereof, we find that the same is a kind of request for examination of the goods and drawl of samples

because on preliminary investigation, some incriminating evidence was found against the petitioner. The letter may not be so happily worded, but still in substance, there is nothing against the petitioner, of which it can seek quashing of. Accordingly, we decline this prayer of the petitioner."

Accordingly, the writ petition is disposed of and the directions given in M/s Cannon Industries Pvt. Ltd.'s case (supra) shall form part of the present order.

(Rajesh Bindal)
Judge

(Adarsh Kumar Goel)
Judge

13.11.2006
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